

Exhibit 68

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 HERMÈS INTERNATIONAL, et al.,

4 Plaintiffs,

5 v.

22 Civ. 384 (JSR)

6 MARTIN ROTHSCHILD,

7 Defendant.

8 -----x

New York, N.Y.
February 2, 2023
9:30 a.m.

10 Before:

11 HON. JED S. RAKOFF,

12 District Judge
13 -and a Jury-

14
15 APPEARANCES

16 BAKER & HOSTETLER LLP
Attorneys for Plaintiffs
17 BY: DEBORAH A. WILCOX
OREN J. WARSHAVSKY
18 GERALD J. FERGUSON

19 HARRIS ST. LAURENT & WECHSCLER LLP
Attorneys for Defendant
20 BY: ADAM B. OPPENHEIM
JONATHAN A. HARRIS

21 LEX LUMINA PLLC
Attorneys for Defendant
22 BY: RHETT O. MILLSAPS, II
23
24
25

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1 Q. Just the words. Can you read the letters?

2 A. Oh, yes.

3 Q. Okay. All right. You called it here a tribute to Hermès's
4 most famous handbag, right?

5 A. Correct.

6 Q. You said in the next paragraph: Creator, Mason Rothschild,
7 began working on MetaBirkins, right?

8 A. Correct.

9 Q. Now, was it your intent to take credit for the MetaBirkins?

10 A. Yes, since day one.

11 Q. Was it your intent to have anybody think the MetaBirkins
12 came from Hermès?

13 A. No.

14 Q. Did there come a time when you added an explicit disclaimer
15 to this website?

16 A. Yes.

17 Q. Okay.

18 MR. HARRIS: Your Honor, I'd like to -- Ashley, sorry.
19 Ashley, if you could please put up Defendant's Exhibit 505 for
20 identification.

21 Q. Mr. Rothschild, could you please briefly describe what is
22 Defendant's Exhibit 505.

23 A. It's the MetaBirkins page. I think we changed this as soon
24 as we got the cease and desist. And it says: You're not
25 affiliated, associated, authorized, endorsed by, or in any way

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1 officially connected with Hermès or any of its subsidiaries or
2 affiliates. The official Hermès website can be found here.

3 MR. HARRIS: Your Honor, may I offer Defendant's
4 Exhibit 505?

5 MR. WARSHAVSKY: No objection.

6 THE COURT: Received.

7 (Defendant's Exhibit 505 received in evidence)

8 Q. That language you just discussed, that's at the bottom?

9 A. It's actually on, like, the first page. So this website is
10 divided into three tiers, and this is the first page that
11 everybody could see in one screen.

12 Q. So if I go to metabirkins.com today, I see this on what I
13 would call the home page?

14 A. Yes.

15 Q. Now, do you recall how soon after you received the cease
16 and desist letter you put that up?

17 A. It was probably very quick.

18 Q. Did you also put up a similar disclaimer on Discord?

19 A. Yes.

20 MR. HARRIS: Ashley, could you please show the witness
21 what's been marked as Defendant's 620 for identification.

22 Q. And could you briefly describe for the Court -- briefly
23 describe for the Court what this Defendant's Exhibit 620 is.

24 A. This is some screenshots of public messages that I sent in
25 the MetaBirkins server, Discord server.

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1 MR. HARRIS: Your Honor, I offer Defendant's Exhibit
2 620.

3 MR. WARSHAVSKY: Is this the whole document?

4 MR. HARRIS: So it's Discord. So it's like an
5 infinite scroll. So this is the relevant page. But I don't
6 object to more of it coming in.

7 MR. WARSHAVSKY: I think we have no objection to the
8 part that was shown to the witness. The rest we have to --

9 THE COURT: That portion is received.

10 (Defendant's Exhibit 620 received in evidence)

11 MR. HARRIS: Thank you, your Honor.

12 Q. And what did you write on Discord?

13 A. I referred people over to the disclaimer.

14 Q. And then if you could just read the very first thing.

15 A. So somebody asked a question if we are affiliated. And I
16 said is the question that I am affiliated with Hermès? And I
17 said no, like every disclaimer, this is an art project and not
18 associated with Hermès. And this is December 22nd.

19 Q. And this would be publicly available to everyone on the
20 Discord channel?

21 A. Correct.

22 MR. HARRIS: Thank you.

23 Ashley, could you please put up plaintiff's -- this is
24 in evidence, Plaintiff's Exhibit 272. And you've already
25 turned to page 58. Thank you.

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1 Q. Do you recall being shown this image by Mr. Warshavsky
2 yesterday?

3 A. Yes.

4 Q. Did you ever make this as a MetaBirkin?

5 A. No.

6 Q. Did you ever attempt to sell it as part of a MetaBirkins
7 collection?

8 A. No.

9 Q. Did you ever plan to sell it as part of a MetaBirkins
10 collection?

11 A. No. This is Mark poking some fun.

12 Q. This is a private message?

13 A. Private message.

14 MR. HARRIS: Can we please -- Ashley, could you please
15 put up Plaintiff's Exhibit 306 in evidence, and please turn to
16 page 3.

17 Q. Mr. Warshavsky showed this to you yesterday, and he
18 directed your attention to the bottom part of this, where you
19 say: And we could do a TikTok campaign. Do you see that?

20 A. Yes.

21 Q. Do you recall being asked those questions yesterday?

22 A. Yes, I do.

23 Q. It says -- and it says to say like at finally got my
24 Birkin, right?

25 A. Yes.